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4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
6 **OAKLAND DIVISION**

7 ARINDAM BANERJEE and JOGESH
8 HARJAI, Individually and on Behalf of All
9 Others Similarly Situated,

10 Plaintiffs,

11 v.

12 AVINGER, INC., JEFFREY M. SOINSKI,
13 MATTHEW B. FERGUSON, DONALD
14 A. LUCAS, JOHN B. SIMPSON, JAMES
15 B. McELWEE, JAMES G. CULLEN,
16 THOMAS J. FOGARTY, CANACCORD
17 GENUITY, INC., COWEN AND
18 COMPANY, LLC, OPPENHEIMER &
19 CO., BTIG LLC, and STEPHENS, INC.,

20 Defendants.

Case No. 17-cv-3400-CW

21 **ORDER APPROVING PLAN OF**
22 **ALLOCATION OF NET SETTLEMENT**
23 **FUND**
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1 This matter came on for hearing on October 23, 2018 (the “Settlement Hearing”) on
2 Plaintiffs’ Counsel’s motion to determine whether the proposed plan of allocation of the Net
3 Settlement Fund (the “Plan of Allocation”) created by the Settlement achieved in the above-
4 captioned class action (the “Action”) should be approved. The Court having considered all matters
5 submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the
6 Settlement Hearing substantially in the form approved by the Court was mailed to all Settlement
7 Class Members, who or which could be identified with reasonable effort, and that a summary notice
8 of the hearing substantially in the form approved by the Court was published in *Investor’s Business*
9 *Daily* and was transmitted over *PR Newswire* pursuant to the specifications of the Court; and the
10 Court having considered and determined the fairness and reasonableness of the proposed Plan of
11 Allocation,

12 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

13 1. This Order approving the proposed Plan of Allocation incorporates by reference the
14 definitions in the Stipulation of Settlement, dated May 9, 2018 (Docket No. 115-3) (the
15 “Stipulation”), and all terms not otherwise defined herein shall have the same meanings as set forth
16 in the Stipulation.

17 2. The Court has jurisdiction to enter this Order approving the proposed Plan of
18 Allocation, and over the subject matter of the Action and all parties to the Action, including all
19 Settlement Class Members.

20 3. Notice of Plaintiffs’ Counsel’s motion for approval of the proposed Plan of
21 Allocation was given to all Settlement Class Members who could be identified with reasonable
22 effort. The form and method of notifying the Settlement Class of the motion for approval of the
23 proposed Plan of Allocation satisfied the requirements of Rule 23 of the Federal Rules of Civil
24 Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due
25 process, and all other applicable law and rules, constituted the best notice practicable under the
26 circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

